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By Electronic Mail (BAKane@psc.dc.gov)
Honorable Betty Ann Kane
Chair, North American Numbering Council
Public Service Commission of the District of Columbia
1333 H Street, N.W., West Tower 7th Floor
Washington, DC 20005

Re: Recommended Plan for Implementation of FCC Order 09-41

Dear Chair Kane,

By order, the Federal Communications Commission ("FCC") charged this industry group with the tasks of addressing how a business day should be construed for purposes of the porting interval and generally defining a simple port. The proposed recommendation, while acceptable in most of its provisions, exceeds the FCC's instructions in several respects and includes additional provisions that conflict with existing law and/or practice and that otherwise circumvent reasonable customer protections. I participated in the Working Group and made it clear in discussions at that level that Windstream does not support the specific aspects of the recommendation that I describe below. We have contacted the Chair of the Working Group regarding our concerns about the portions of the recommendation discussed in this letter and also are requesting that a copy of this letter be included in the recommendation provided to the FCC on these matters. As I will address, the Council should not endorse or adopt the recommendation in its entirety as proposed by the LNP Working Group and must make several changes to several portions of the recommendation to ensure that the recommendation is consistent with law and sound public policy.

First, under Section 3.2, the recommendation includes a provision that the old local service provider cannot require a physical copy of the end user's authorization to be provided before processing a customer service record. This part of the recommendation directly contradicts Section 222 of the Act. Section 222 and the Commission's rules expressly prohibit the disclosure of CPNI except in limited circumstances. Of course, consumers may request the disclosure of such information, but Section 222(c)(2) expressly requires **an "affirmative written request"** by the customer." Although Section 64.1120(a)(2) of the Commission's rules provides that actual submission of the customer's authorization is not required prior to a port request, there is no similar provision in the law for access to CPNI itself. It has been Windstream's experience that some requesting providers attempt to avoid obtaining verified authorization from end users until the time that service is installed and well after the time that

they have submitted port requests or attempted to access customers' CPNI through Windstream's system. Specifically, local service providers must be allowed to enact reasonable safeguards to protect CPNI as required by law and to ensure that requesting carriers have obtained the written authorization of a customer prior to accessing that customer's CPNI, as required under Section 222 of the Act. Service providers have an affirmative duty to safeguard CPNI, and Section 3.2 of the recommendation as drafted is counter to that goal.

Second, also under Section 3.2, the recommendation includes language stating that all information required to be provided by new service providers for an LSR must be made available by the old service provider on the CSR with the exception of any end user requested passcodes. This recommendation should be rejected. It is inconsistent with the FCC's rules and LNP Four Fields Ruling and also establishes bad policy that precludes reasonable validation of customer information. For example, this portion of the recommendation would have the effect of requiring an old service provider to simply give the requesting provider the customer's account number and any company-assigned passcode in order for the requesting provider to fill out an LSR. In the particular case of an account number, that term is defined by the FCC in Section 64.2003(a) separately from CPNI and does not constitute CPNI. While an old service provider is required under Section 222 of the Act to make CPNI available to a requesting service provider when the requesting provider obtaining written authorization from the end user, there is no provision in the law requiring the old service provider to make all of an end user's account information, including the account number or company-assigned passcode, available to the requesting provider without written authorization. Indeed, such a requirement is wholly inconsistent with the validation processes outlined in the FCC's Four Fields Ruling which spoke to the affirmative benefits of using account numbers and passcodes to validate LSRs. In that ruling, the FCC agreed with competitive providers that four fields of information were necessary to validate simple ports. Those four fields are account number, passcodes, telephone numbers, and zip codes, and the FCC made no distinction between company assigned or customer requested passcodes. The recommendation being proposed here, however, renders that FCC ruling and any reasonable validation process virtually meaningless by seeking to require old service providers merely to "give away the answers to the test" without requesting providers having to "do their homework" with end users.

Third, in Section 3.2, the recommendation includes language proposing that no company-assigned passcode may be used to validate either an LSR or a CSR. For the reasons I explained above, this recommendation is contrary to the validation processes proposed by the FCC in its Four Fields Order and also the customer authorization safeguards in Section 222 of the Act. While Windstream recognizes that the FCC's Four Fields Order applies on its face to fields required for validating simple ports, those fields were deemed reasonable by the FCC (and the competitive carriers that suggested them) and are reasonable fields for validating that a requesting carrier has obtained the required customer authorization for accessing CPNI.

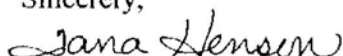
Fourth, similar language is set forth in Section 3.5.3 of the recommendation. The same language in that section should be rejected for the same reasons I have just discussed pertaining to Section 3.2.

Windstream understands that the purported need offered in support of the provisions set out above was that such validation processes caused an increase in the delay and complexity of porting for end users who want to change providers. Despite such assertions that such validation processes hinder the porting process, Windstream's data provide no support for such claims. Rather, Windstream's experience is that such validation processes help curb attempts by parties to circumvent customer authorization processes without causing any discernable negative impact to the porting success rates of requesting carriers. In fact, what has been shown to negatively impact porting success rates is a company's use of agents - and in the case of one particular company, agents of agents - to perform the port ordering functions. Windstream believes these facts reinforce the need for such validation procedures, particularly where the agents may not be telecommunications carriers themselves.

The recommendation as currently drafted includes portions in Sections 3.2 and 3.5.3 that seek to undermine legitimate and reasonable validation processes. In this respect, not all portions of the recommendation are consistent with the law or established practice as I explained. Those portions of the recommendation could enable wholesale entities (or their agents, who in many cases are outside the United States) to access accounts and CPNI without the same level of scrutiny as required for the end users themselves to access their own accounts and CPNI in the retail context. Before these portions of the recommendation are endorsed by the NANC and submitted to the FCC, they should be referred back to the Working Group for further consideration or deleted altogether.

Windstream appreciates the Council's consideration of these matters.

Sincerely,



Tana Henson

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